

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

JUSTIN OPYRCHAL, individually, and)	
on behalf of all other similarly situated	)	Case No. CV07-518-VBF (VBKx)
current and former employees of	)	CLASS ACTION
Defendants in the State of California,)	
)	
Plaintiffs,)	
v.	)	ORDER GRANTING CLASS
	)	COUNSEL’S MOTION FOR
NEW YORK LIFE INSURANCE	)	ATTORNEYS’ FEES, LITIGATION
COMPANY, INC., a New York	)	COSTS AND INCENTIVE
corporation; NEW YORK LIFE AND	)	AWARDS
HEALTH INSURANCE COMPANY,)	
INC., a Delaware corporation; NEW)	
YORK LIFE INSURANCE AND	)	Date: March 9, 2009
ANNUITY CORPORATION, INC., a	)	Time: 1:30 p.m.
Delaware corporation; and DOES 1	)	Courtroom: 9
through 100 inclusive,	)	Judge: Hon. Valerie Baker Fairbank
Defendants)	

On March 9, 2009, the Court heard a motion by Plaintiffs, Olga Ortmann (“Ortmann”) and Justin Opyrchal (“Opyrchal”), on behalf of themselves and all others similarly situated, for approval of Class Counsel’s Motion for an Award of Attorneys Fees, Litigation Costa and Incentive Awards to Class Representatives, Ortmann and Opyrchal.

1 The Parties have submitted the proposed Settlement, which this Court
2 finally approved in its March 9, 2009 Order. Having finally approved the
3 Settlement, and having received and reviewed the supporting papers, the
4 response of the Class Members to the Notice of Settlement, and the evidence
5 and argument received by the Court at Hearing on March 9, 2009, the Court
6 grants the Motion by Class Counsel for an Award of Attorneys' Fees, Litigation
7 Costs and Incentive Awards , and HEREBY FINDS as follows:

8 1. Except as otherwise specified herein, the Court for purposes of this
9 Order of Final Approval adopts all defined terms set forth in the Settlement;

10 2. Pursuant to the Preliminary Approval Order, a Notice Packet was
11 sent to each Class Member by first-class mail. The Notice included language
12 advising Class Members that Class Counsel would ask the Court to award
13 attorneys' fees up to \$3,000,000 (30% of the Maximum Settlement Amount)
14 and litigation costs not to exceed \$35,000. In addition, the Notice provided that
15 Class Counsel would ask the Court to authorize an enhancement payment of up
16 to \$25,000 to each of the two Class Representatives;

17 3. The Claims Administrator took reasonable steps to provide the
18 Notice Packet to Class Members when it learned that the address to which those
19 documents were mailed was no longer accurate. These documents informed
20 Class Members of the terms of the Settlement, including the request by Class
21 Counsel for Attorneys' fees, litigation costs, and enhancement payments to the
22 two Class Representatives and their right to object to the Settlement or to opt
23 out of the Settlement and pursue their own remedies, and their right to appear in
24 person or by counsel at the Final Approval Hearing and be heard regarding the
25 final approval of the Settlement. Notice was provided with ample time for the
26 Class Members to follow these procedures;

27 4. The Court finds that this notice procedure afforded adequate
28

1 protections to Class Members and provides the basis for the Court to make an
2 informed decision regarding approval of Class Counsel's Motion for an Award
3 of Attorneys' Fees, Litigation Costs and Incentive Awards to Class
4 Representatives. Notice was accomplished in all material respects in the
5 manner prescribed by the Settlement. The Court finds that adequate notice
6 provided to all persons entitled to such notice in this case, was the best notice
7 practicable, and, therefore, fully satisfied the requirements of due process;

8 5. The Attorneys' Fees requested by Class counsel are commensurate
9 with 1) the risk Class Counsel took in commencing this action, (2) the time,
10 effort and expense dedicated to the case, (3) the skill and determination they
11 have shown, (4) the results they have achieved throughout the litigation, (5) the
12 value of the settlement they have achieved for class members, and (6) the other
13 cases counsel have turned down in order to devote their time and efforts to this
14 matter;

15 6. The Attorneys' Fees requested by Class counsel, \$3,000,000,
16 represent 30% of the total settlement of \$10,000,000 and are reasonable and are
17 within the range of fees awarded in comparable cases;

18 7. That the litigation costs for which Class Counsel requests
19 reimbursement were reasonable and necessary;

20 8. That the enhancement payments requested by Class
21 Representatives, Ortmann and Opyrchal, for their efforts in obtaining recovery
22 for the Class are reasonable and are within the range of enhancement payments
23 awarded in comparable cases;

24 Therefore, IT IS HEREBY ORDERED:

25 1. That the Motion by Class Counsel for an award of Attorneys' Fees in
26 the amount of \$3,000,000 is granted;
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